MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2016 / 2017

UIS4612 – LAW OF INSOLVENCY

(All Sections / Groups)

3 MARCH 2017

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 Questions only.

3. Attempt **FOUR** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copies of: (i) Bankruptcy Act 1967 and Rules (incorporating latest amendments); (ii) Companies Act 1965 and Companies Act 2016; (iii) Companies (Winding-up Rules 1972 (incorporating latest amendments) and (iv) Rules of Court 2012.

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided. Please **highlight** or **underline** all references to cases and statutes

QUESTION 1

(a) Aladdin a young executive, bought a car for RM120,000.00 by means of a hire-purchase agreement with Easy Hire Sdn. Bhd. (EHSB) in June 2015. His father Abu, is his guarantor. As Aladdin was unable to pay his monthly hire purchase payments EHSB obtained judgment against both Aladdin and Abu for the sum of RM 85,000.00 with interest and costs on the 15 August 2016. Aladdin negotiated with EHSB for monthly payments of RM 200.00 per month towards satisfaction of the judgment sum. However Aladdin has not been paying the rescheduled monthly payments.

EHSB have commenced bankruptcy proceedings against Aladdin and seek your advise on whether they may likewise commence proceedings against Abu.

Advise EHSB.

(10 marks)

(b) Discuss the objectives of bankruptcy legislation and how far has the Bankruptcy Act 1967 met these objectives.

(15 marks)

(Total: 25 marks)

QUESTION 2

Discuss the effectiveness of the new corporate rescue mechanisms of Judicial Management and Corporate Voluntary Arrangement introduced under the Companies Act 2016.

(Total: 25 marks)

QUESTION 3

On 1 October 2016, David obtained judgment in default against Goliath for a sum of RM75,000.00 with interest at 6% per annum from date of judgment to date of realisation and costs of RM1,500.00.

On 5 November 2016, David demanded payment of the judgment sum. However Goliath was only able to make a part payment of RM25,000.00.

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On 7 December 2016, David served a bankruptcy notice demanding the full judgment sum of RM75, 000.00 with interest at 6% per annum from the date of judgment to the date of realisation and costs of RM1,500.00 payable within five days of service of the bankruptcy notice.

Goliath ignored the bankruptcy notice. On 3 January 2017, David filed and served a creditor's petition dated 3 January 2017 together with a supporting affidavit dated 2 January 2017 on Goliath.

The creditor's petition is fixed for hearing in the first week of April 2017.

Advise Goliath if he could oppose the creditor's petition.

(Total: 25 marks)

Answer EITHER Question 4(a) OR Question 4 (b)

QUESTION 4 (a)

On 20 June 2016, Modern Furniture Sdn. Bhd. (MFSB) supplied furniture worth RM200,000.00 on 3 months credit terms, to Welcome Hotel Sdn. Bhd. (WHSB). However as WHSB failed to pay within the stipulated period, MFSB issued a notice of demand dated 14 December 2016, demanding payment of RM200,000.00 within 2 weeks of the date thereof. The notice was handed to Alice, a staff at the front desk of WHSB the same day. WHSB failed to pay within the specified period.

On 2 January 2017, MFSB presented a winding up petition under section 218(1)(e) of the Companies Act 1965 on the grounds that the WHSB was unable to pay its debts. An affidavit verifying the petition was filed 4 days before the petition. The said petition was served on WHSB's solicitors, M/S Tom and Jerry, Advocates & Solicitors and also at WHSB's place of business.

The petition is fixed for hearing on 6 April 2017.

WHSB wish to set aside the winding-up petition on the grounds that they are not insolvent as they have assets which, if realised would enable them to pay the debt.

Advise WHSB.

(Total: 25 marks)

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OR

QUESTION 4(b)

Malang was adjudged a bankrupt on 25 January 2017 arising out of a judgment entered against him for the sum of RM100,000.00 on 20 April 2016. Prior to that, he had sometime in February 2015, made a gift of his apartment (the apartment) worth approximately RM500,000.00 to his daughter, Putri, in consideration of her marriage. Putri and her husband are currently residing in that apartment.

Discuss whether the said apartment may be taken by the Director General of Insolvency into the pool of assets to settle the creditors' claims.

(Total: 25 marks)

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